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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,775	09/08/2000	Herbert Heiss	P001566	7968
26161	7590	12/24/2003	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			HAN, CLEMENCE S	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/623,775

Applicant(s)

HEISS ET AL.

Examiner

Clemence Han

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1-5 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Lyon et al. (U.S. Patent 6,151,299).

In regarding to claim 1, Lyon teaches a method for removing ATM cells 46 from an ATM communications device 12 wherein ATM cells are respectively allocated in pluralities to a common frame, all ATM cells of a frame whose first ATM cell is in a waiting list are removed from a waiting list for administration of a sequence of ATM cells (Figure 2b), comprising the steps of: storing a frame start identifier that identifies the ATM cell 50 in the waiting list that immediately precedes the first ATM cell 46 of the frame 42 (Column 6 Line 1); and calling the frame start identifier before removal of the ATM cell of the frame (Column 5 Line 35 – 38).

In regarding to claim 2, Lyon teaches the removed frame is the frame beginning farthest toward a back in the waiting list (Figure 2b).

In regarding to claim 3, Lyon teaches removing following ATM cells of the frame up to and including a last ATM cell of the frame upon arrival or following arrival at the waiting list (Column 3 Line 53 – 56).

In regarding to claim 4, Lyon teaches referencing the last ATM cell 50 by the frame start identifier when the first ATM cell 46 of the frame 42 is immediately preceded by the last ATM cell 50 of a different frame 40 (Column 6 Line 1).

In regarding to claim 5, Lyon teaches referencing said individual ATM cell by the frame start identifier when the first ATM cell of the frame is immediately preceded by an individual ATM cell not allocated to a frame (Figure 3b).

In regarding to claim 8, Lyon teaches performing a check at or following attaching of an arrived ATM cell to an end of the waiting list to see whether the arrived ATM cell is a last cell of a frame (Column 5 Line 66 - 67); and as warranted, storing a value that references the arriving ATM cell as the frame start identifier (Column 6 Line 1 - 2), so that the ATM cells of the appertaining frame cannot be removed from the waiting list.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyon et al. in view of Caldara et al. (U.S. Patent 5,822,540)..

In regarding to claim 6, Lyon teaches a method for removing ATM cells 46 from an ATM communication device 12 wherein ATM cells are respectively allocated in pluralities to a common frame, all ATM cells of a frame whose first ATM cell is in a waiting list are removed from a waiting list for administration of a sequence of ATM cells (Figure 2b). Lyon, however, does not teach storing a predetermined inhibit value so that an individual ATM cell not allocated to any frame cannot be removed from the waiting list. Caldara discloses the step of inhibiting an individual ATM cell not allocated to any frame from being removed from the waiting list (Column 3 Line 67 – Column 4 Line 1). It would have been obvious to one skilled in the art to modify Lyon to inhibit the removal of the individual ATM cell not allocated to any frame as taught by Caldara in order to keep the ATM cells important to the system operation.

In regarding to claim 7, Caldara teaches the predetermined inhibit value is stored at least one of upon arrival of the individual ATM cell at the waiting list and when the individual ATM cell is added to the waiting list (step 26 in Figure 2).

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to the cell discarding method.

U.S. Patent 5,404,354 to Hayter et al.

U.S. Patent 5,764,641 to Lin

U.S. Patent 6,049,527 to Isoyama et al.

U.S. Patent 6,282,171 to Adams et al.

U.S. Patent 6,345,037 to St-Denis et al.


U.S. Patent 6,512,747 to Umeuchi et al.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (703) 305-0372. The examiner can normally be reached on Monday-Friday 8 to 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (703) 308-6602. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

  
Clemence Han  
Examiner  
Art Unit 2665

  
HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600